

Proposed Repeal of Chapter 193 of Title 15, Hawai'i Administrative Rules ("HAR"), entitled "State-Aided Family Public Housing Projects"; and Adoption of Proposed New Chapter 2034 of Title 17, HAR, entitled "State-Aided Family Public Housing Projects" which is substantially based on Chapter 15-193, HAR, and includes the proposed amendments to Chapter 15-193, HAR, previously adopted by the Hawaii Public Housing Authority's (HPHA) Board of Directors on January 21, 2016, and sets forth the rules and requirements for HPHA's State-Aided Family Public Housing Projects Which is a General Occupancy Rental Housing Program that Offers Rental Housing to a Qualified Person or Family

**Chapter 15-193 to be renumbered Chapter 17-2034, and "Housing and Community Development Corporation of Hawaii" or "Corporation" to be replaced with "Hawaii Public Housing Authority" or "Authority";**

**Replacing references to Chapter 201G, Hawaii Revised Statutes with Chapter 356D, Hawaii Revised Statutes;**

**New Section 17-2034-2 [Definitions – "Accessible dwelling unit", "Adjusted annual income", "Annual income", "Backcharge", "Common Areas", "Community Facilities", "Criminal Activity", "Domestic Violence", "Drug", "Drug Related Criminal Activity", "Dwelling Unit", "Family", "Foster Children", "Gender identity or expression", "Involuntarily Displaced", "Live-in Aide", "Near Elderly", "Permanently Absent", "Housing Projects", "Rental Agreement", "Resident", "Security Deposit", "Sexual Orientation", "Smoke", "Smoking", "State-aided Family Public Housing Projects", "Utility Allowance", "Utility Reimbursement", "Violent Criminal Activity"- Inserting and Clarifying definitions];**

§[15-193-2] 17-2034-2 Definitions. [As used in these rules, except otherwise required by context:] Whenever used in this chapter, unless specifically defined:

"Accessible dwelling unit" means [an apartment] a dwelling unit which is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities or [an apartment] a dwelling unit being made accessible as a result of

alterations and is intended for use by a specific qualified individual with disabilities which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"Adjusted annual income" means net earned income plus unearned income of the members of the family residing or intending to reside in the dwelling unit.

"Alien" means any person not a citizen of the United States but is allowed under federal law, to reside in the United States.

"Annual income" means earned and unearned income from any source before deductions or exemptions, anticipated to be received during the twelve month period following admission or [redetermination] reexamination of annual income, as the case may be, by all persons occupying, or who are temporarily separated from the household. Annual income does not include the employment income of a minor or amounts specifically paid to the household for or in reimbursement of the cost of medical expenses for any household member.

"Applicant" means a person or a family that has applied for housing assistance.

"Assets" means total cash, securities, real and personal property less any outstanding liabilities secured by the assets. Assets do not include necessary personal property such as clothing, household furniture, automobiles and eligible individual development accounts, including any earned interest, which are established pursuant to chapter 257, Hawaii Revised Statutes.

"Authority" means the Hawaii public housing authority.

"Backcharge" means the amount of arrears in rent or other charges owed to the authority.

["Bottom of the waiting list" means denying an applicant the benefit of all placement tenant selection preferences and priorities, as prescribed in this chapter, for a period of twelve months and establishing a new date and time for placement on the waiting list based on the date and time the unit offer was rejected.]

["Corporation" means the housing and community development corporation of Hawaii.]

"Common areas" means roofs, halls, sidewalks, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project or household normally in common use or other areas designated by the authority.

"Community facilities" means real and personal property; buildings, equipment, lands, and grounds for recreational or

social assemblies, and for educational, health, or welfare purposes; and necessary or convenient utilities, when designed primarily for the benefit and use of the authority or the occupants of the dwelling units.

"Criminal activity" means the tenant, any member of the tenant's household, a guest or another person under the tenant's control has engaged in any conduct constituting a criminal violation of federal law, HRS, or local ordinances regardless of whether there has been an arrest or conviction for such activity and without satisfying the standard of proof used for a criminal conviction.

"Disability" means having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment. The term does not include current illegal use or addiction to a controlled substance or alcohol or drug abuse that threatens the property or safety of others. Disabled individual or family includes:

- (1) A single individual who or a family whose head or spouse is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in indefinite duration; or
- (2) A single individual who or a family whose head or spouse has a physical impairment which is expected to be of long, continued and indefinite duration and which substantially impedes the ability to live independently, and which is of a nature that the ability could be improved by more suitable housing conditions.

["Displaced" means a family who is lawfully residing on real property and is required to move from the real property as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by some public or governmental action. "Displaced" also includes the foregoing movements from real property by any family or person lawfully residing on real property who is required to move from the real property as a result of code enforcement activities.]

"Domestic violence" means the actual or threatened physical violence directed against a family member by a spouse, former spouse, or other member of the family who is living or has lived with the family.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802) as it existed on March 28, 2013.

"Drug related criminal activity" means the illegal manufacture, sale, distribution, or use of a drug, or possession

of a drug with intent to manufacture, sell, distribute or use the drug.

"Dwelling unit" means a residential unit in a public housing project.

"Earned income" means cash received or available to be received by the family that require some part of the family to produce. Earned income includes, but is not limited to, wages; tips; dismissal and severance pay; wages received from any on-the-job training program; wages received from funds under the job training partnership act (JTPA); public service employment (PSE); royalties; jury duty income excluding reimbursement for transportation and meals; basic allowance for quarters and entitlements paid to military personnel; and self-employment earned income.

"Elderly" means a family whose head or spouse has attained the age of sixty-two.

"Family" means[:] regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family's need and may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated; or
- (2) A person who is pregnant or in the process of securing legal custody of a minor child or children, and who has reached the age of majority or is otherwise emancipated; [or]
- (3) A single person; or
- (4) A remaining member of a tenant family who is recorded on the current list of household members authorized to occupy the dwelling unit and who has reached the age of majority or is otherwise legally emancipated.

"Foster children" means a person or persons, under eighteen years of age who is or are not related to the foster parent by blood, marriage, or adoption and who is or are in need of parenting care.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child pursuant to placement by an authorized agency.

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-

related expression is different from that traditionally associated with the person's sex at birth.

"Hanai children" means a person or persons, under eighteen years of age, for whom a tenant provides food, nourishment and support for a minimum period of at least a year and who is acknowledged as the tenant's child among friends, relatives and the community.

["Housing projects" means those rental projects owned and operated or both, by the corporation.]

"HRS" means the Hawaii Revised Statutes.

"HUD" means the United States Department of Housing and Urban Development.

"Individual development account" means an optional, interest-bearing, subsidized, tax-benefited account established pursuant to chapter 257, HRS and used exclusively for the purpose of paying the qualified expenditure of an eligible individual as determined by the fiduciary organization.

"Involuntarily displaced" means an applicant who has vacated or will have to vacate the unit where the applicant lives because of one or more of the following:

- (1) Displacement by disaster; or
- (2) Displacement by governmental action.

"Live-in aide" means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons;
- (3) Would not be living in the unit except to provide the necessary support services; and
- (4) Is not a tenant.

"Low income family" means a family whose income does not exceed eighty per cent of the median income as determined by the method set forth in exhibit A, which is incorporated by reference and attached.

"Near elderly" means a family whose head, spouse, or sole member is at least fifty years of age but below the age of sixty two, or two or more persons, who are at least fifty years of age but below the age of sixty two, living with one or more live-in aides.

"Permanently absent" means the household member is away from the unit for six consecutive months except when the authority verifies that the absence is temporary due to military service or to receive care at a hospital, nursing home, or rehabilitation center.

[ "Housing projects" ] "Project" means those rental [projects] properties owned and operated or both, by the [corporation] authority.

"Police officer" means a person determined by the authority to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, State or local government or by any agency of these governments.

"Refusal of an offer" means an applicant declines an offer made by the [corporation] authority for a specific unit from any waiting list or an applicant's failure to respond to a written offer from the [corporation] authority for a specific unit within the time specified in the offer.

"Rent" means the monthly charge to a tenant for the use of a dwelling unit.

"Rental agreement" means the agreement or contract containing the terms and conditions of occupancy of a dwelling unit entered into by the tenant and [corporation] authority.

"Resident" means a United States citizen or a permanent United States resident who is able to demonstrate his or her intent to reside in Hawaii. Intent to reside in Hawaii may be demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii; Hawaii driver's license; record of Hawaii motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside in Hawaii.

"Security deposit" means a monetary deposit required [of each tenant] prior to admission [for] to state-aided family public housing projects that is applied against the cost of loss or damage [of] to the [corporation's] authority's property (responsible wear and tear excepted) and non-payment of rent.

"Sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. "Sexual orientation" shall not be construed to protect conduct otherwise proscribed by law.

"Smoke" or "smoking" means inhaling, exhaling, burning, or carrying any lighted smoking or heated tobacco product or plant product intended for inhalation in any manner or in any form.

"Self-employment income" is determined by deducting from the amount received from the sale of goods or services, those expenses directly related to producing the goods or services.

- (1) Items such as depreciation, personal business, and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.
- (2) A business expense shall be an allowable deduction from earned income only if verified.
- (3) A self-employed person shall:
  - (a) Not be able to be discharged from the person's job by someone else;
  - (b) Report income to the Internal Revenue Service and the State of Hawaii as a self-employed person;
  - (c) Meet social security requirements as a self-employed person and shall pay the employer's and the employee's share of social security taxes;
- (4) Not be considered to be an employee of an agency or organization; and
- (5) Be licensed by the State to operate a business.

"Staff" means the employees or agents of the [corporation] authority.

"State-aided family public housing projects" means the housing projects of Hauiki Homes, Puahala Homes, Lokahi, [Palolo I and II], Kawailehua (State), Ka Hale Mua (State), [and] Ke Kumu Elua [,] which are owned by the [corporation] authority.

"Tenant" means the person or persons who enter into a rental agreement with the [corporation] authority for a dwelling unit.

"Unearned income" means cash received or available to be received by the family that is not classified as earned income. Unearned income includes, but is not limited to, social security benefits; veteran's benefits; pension and retirement benefits; unemployment insurance benefits; supplemental security income; worker's compensation benefits and temporary disability insurance benefits; strike benefits; money received to settle any insurance, legal or inheritance claim; alimony; child support payments; regular cash contribution and any in-kind contribution benefits.

"U.S.C." means the United States Code.

"Utility allowance" means the value of utilities such as electricity, gas, and water costs. This does not include telephone or cable television services.

"Very low-income family" means a family whose income does not exceed fifty per cent of the median income as determined by the method set forth in exhibit A, which is incorporated by reference and attached.

"Veteran" means any person who has served in any of the armed services of the United States, or any person who is now a citizen of the United States who has served in any of the armed services of any country which was an ally of the United States in any war or campaign in which the United States was also engaged in. "Veteran" includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term "veteran" includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1939, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service.

"Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

[Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, 356D-6.5, [201G] 356D-41, 356D-42, 515-2)

### **New Section 17-2034-3 [Income limits – clarifying how income limits are determined];**

§[15-193-3] 17-2034-3 Income limits. (a) The income limit for admission to a public housing project is based on the applicant's annual household income which shall not exceed the very low-income limits as most recently determined by [the calculation using the method set forth in exhibit A, which is incorporated by reference and attached.] HUD.

(b) The income limit for continued occupancy in a housing project is based on the tenant's annual household income which shall not exceed the low income limits as most recently determined by the calculation using the method set forth in exhibit A, which is incorporated by reference and attached.  
[Eff

] (Auth: HRS [201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)



**New Section 17-2034-5 [Asset transfers – clarifying how the value of assets are to be determined];**

§[15-193-5] 17-2034-5 Asset transfers. (a) All assets transferred or assigned from an applicant or tenant to another person, within a [twenty-four month] two year period prior to submitting an application for the program or reexamination, shall be included in determining an applicant's assets.

(b) [The value of the assets shall be based on the fair market value.] In determining assets, the authority shall include the value of any business or assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or a bankruptcy sale) during the two years preceding the date of the application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. [Eff  
] (Auth: HRS §[201G] 356D-4,356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

**New Section 17-2034-7 [Utility allowances – clarifying when rents for families residing in state-aided public housing projects will include utility allowances; determination of excess utility usage];**

§[15-193-7] 17-2034-7 [Interim utility] Utility allowances. [for the tenants in the Hauiki project.] (a) [Until meters are installed for individual units in the Hauiki project, the monthly rent for a tenant shall include utility allowances.] The monthly rent for a family residing in a state-aided public housing project shall include utility allowances established in accordance with subsection (b) only until meters are installed for individual units. Utility allowances shall not be included in rent for individually metered units.

(b) The utility allowance schedules may be modified from time to time with at least thirty days written notice to tenant and an opportunity for tenant to present written or oral comments which shall be considered prior to the modifications becoming effective. The applicable schedules shall be publicly posted in a conspicuous manner at the [corporation's] authority's project offices and shall be furnished to a requester upon request.

(c) A tenant receiving utility allowance shall pay for utility usage in excess of the applicable utility allowance[.] where:

- (1) A checkmeter has been installed, the family must pay the excess unit cost of the relevant utility amount based on the authority's average utility rate as described in subsection (b).
- (2) A checkmeter has not been installed, the family must pay for excess usage resulting from estimated utility consumption attributable to tenant-owned major appliances or to optional functions of authority-furnished equipment according to the schedule described in subsection (b).

[Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-44)

### **New Section 17-2034-20 [Application – amending application process];**

§[15-193-20] 17-2034-20 Applicants. (a) A person seeking admission to a [housing] project shall[:] submit a completed pre-application form prescribed by the authority. The applicant may file at any of the authority's in-take offices and apply for one of the geographic waiting list areas prescribed in section 17-2034-33.

- [(1) Be a resident of the State of Hawaii, except that no preference shall be given to applicants based on residency in a specific locality or area within the corporation's jurisdiction;
- (2) Not have previously lived in a housing project and been evicted from the project since March 1, 1985;
- (3) Not have an outstanding debt owed to the corporation as a participant in any of its programs; and
- (4) Meet the occupancy standards as set forth in exhibit B, which is incorporated by reference and attached.
- (b) A person seeking admission to a housing project must submit a completed application form as used by the corporation. The applicant is permitted to file at any of the corporation's intake offices an application for any and all waiting lists prescribed in section 17-2034-33.]

(b) The applicant shall be preliminarily placed on a waiting list upon submission of a completed pre-application form. Placement on a waiting list shall not be deemed a determination on eligibility or admission.

(c) An applicant who has misrepresented material information in an application for any of the authority's programs shall not be eligible to file an application with the

[corporation] authority for twelve months from the date of written notification from the [corporation] authority.  
[Eff \_\_\_\_\_] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §[201G] 356D-42)

**New Section 17-2034-21 [Eligibility for admission – new initial and final requirements];**

§[15-193-21] 17-2034-21 Eligibility for admission and participation. (a) To be eligible for admission to a housing project, an applicant and household members shall meet the requirements [set forth in section 17-2034-20, and shall:] of the pre-application and final application phases as set forth below:

- (1) During the pre-application phase, the applicant and adult household members shall:
  - [(1)] (A) Qualify as a family;
  - (B) Be a resident of the State of Hawaii, except that no preference shall be given to applicants based on residency in a specific locality or area within the authority's jurisdiction;
  - [(2)] (C) Have an income that does not exceed the applicable income limit;
  - [(3)] (D) Have assets that do not exceed the applicable limit;
  - [(4)] (E) Not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land on or after December 13, 2001;
  - (F) Not have an outstanding debt owed to the authority as a participant in any of its programs;
  - (G) Not have been evicted since March 1, 1985, from a public housing program administered by the authority or any of its predecessors, the housing and community development corporation of Hawaii or Hawaii housing authority; with the exception of evictions solely due to failure to pay rent, in which case, the applicant can be admitted upon payment in full of the unpaid amounts due to the authority;
  - (H) Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or state housing program;

- (I) Not have been convicted of drug-related criminal activity for the manufacture, production, or distribution of methamphetamines;
- (J) Not subject to lifetime registration requirements under any state sex offender's registration program;
- [ (5) Not have a record of conduct or behavior within three years of the projected date of admission which may be detrimental to the project, its tenants, or employees;
- (6) ] (K) Not have a recent history of criminal activity involving crimes to persons or property or other criminal acts that may adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents. For purposes of this subsection, in determining eligibility, the [corporation] authority shall consider whether a person convicted for such a crime has successfully completed a rehabilitation program approved by the [corporation] authority, or whether the circumstances leading to the criminal conviction no longer exists;
- [ (7) ] (L) Not have been evicted from [any of the corporation's] assisted housing [programs for] by reason of drug-related criminal activity for a three [years.] year period beginning on the date of the eviction unless the evicted tenant successfully completes a supervised drug [For the purposes of this subsection, in determining eligibility, the corporation shall consider whether the evicted applicant or household member has successfully completed a] rehabilitation program approved by the [corporation] authority. [, or whether the circumstances leading to eviction no longer exist.] This subsection does not apply to an applicant or household member ineligible under section [15-193-20(a)(2);] 17-2034-21(a)(1)(G);
- [ (8) ] (M) Not [engage] currently or during a three year period preceding the date when the applicant household would otherwise be selected for admission be engaged in any drug-related criminal activity or violent criminal activity[. For the purposes of this subsection, "violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical

force against the person or property of another;] or other criminal activity involving assault, terroristic threatening, firearms, dangerous weapons, harassment, kidnapping, sexual assault, extortion, forgery, burglary, unauthorized entry into a dwelling, unauthorized entry into a motor vehicle, criminal property damage, criminal trespass on public housing property, disorderly conduct, child pornography, and consuming liquor on public housing property, which is considered as reasonably likely to adversely affect the health, safety, right to peaceful enjoyment of the premises by other tenants, the authority, or staff;

[(9)] (N) Not [engage] currently engaging in the illegal use of a [controlled substance] drug or give the [corporation] authority reasonable cause to believe that [the] a household member's illegal use [of a controlled substance,] (or pattern of illegal use,) of a drug or abuse (or pattern of abuse) of alcohol[, or pattern of abuse] may interfere with the health, safety [of the residents,] or right to peaceful enjoyment of the premises by other [residents;] tenants. For the purposes of this subsection:

[(A)] (i) [For the purposes of this subsection, "reasonable cause to believe" means by a preponderance of the evidence;] "Currently engaged in" means the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current; and

[(B)] (ii) [For the purposes of this subsection, in] In determining whether to deny eligibility based on a pattern of illegal use of a [controlled substance] drug or a pattern of abuse of alcohol, the [corporation] authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b) (2) (A)-(C), [effective October 1, 1999, which is incorporated by reference and attached as exhibit C;] as it existed on June 25, 2013;

[(10)] (O) Provide a social security number for all family members [who are over five years old] or certify that the person does not have a social security number; and

(P) Disclose incidence of tobacco use of all family members within the household.

(2) During the final application phase, the applicant and all adult household members shall meet the requirements as set forth in (1) above, as well as the following requirements:

(A) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include racial epithets, or other language, written or oral, that is customarily used to intimidate; and

[ (11) ] (B) Furnish evidence that the applicant is a citizen of the United States or a resident alien[.];

(b) An applicant's past performance in meeting financial obligations, especially rent, may be considered by the authority in its selection of families for admission into its state-aided public housing program. [Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

**New Section 17-2034-22 [Notification of eligibility; informal hearings – Clarifying notification process; informal hearing];**

§[15-193-22] 17-2034-22 Notification of eligibility. (a) [An applicant shall be notified in writing by the staff as to the applicant's eligibility after a determination is made and the notification shall specifically state the reasons for determination.] Upon making a determination of eligibility, the authority shall mail or cause to be delivered a written notification to an applicant's last known address provided by the applicant. The notification shall specifically state the reasons for the determination.

[(b) An eligible applicant shall be placed on a waiting list.]

[(c)] (b) [An ineligible applicant may request an informal hearing within fourteen days after date of the written notification. The informal hearing shall be conducted by someone other than the person or the person's subordinates who made or approved the decision.] An applicant determined to be ineligible for admission or participation in the program shall be provided an opportunity for an informal hearing pursuant to

section 17-2034-24. [Eff ] (Auth: HRS §[201G] 356D-4,356D-44) (Imp: HRS §[201G] 356D-42)

**New Section 17-2034-23 [Informal hearing process];**

§17-2034-23 Informal hearing for applicants determined to be ineligible for admission. (a) An applicant determined to be ineligible for admission or participation in the program may request an informal hearing by submitting a written request within fourteen calendar days from the date of notification of ineligibility.

(b) The informal hearing shall be scheduled within twenty-one calendar days from the date the written request is received and shall be conducted by any person or persons designated by the authority, but shall not be a person who made or approved the determination of ineligibility or a subordinate of such person.

(c) The applicant shall be given the opportunity to present evidence, which shall be considered by the hearing officer, along with the data compiled by the authority.

(d) A written notice of the hearing officer's decision shall be mailed to the applicant within twenty-one calendar days after the hearing. The notice shall include an explanation of the reasons for decision. [Eff ] (Auth: HRS §§356D-4,356D-44) (Imp: HRS §§356D-4, 356D-41)

**New Section 17-2034-30 [Nondiscrimination – Updating protected classes];**

§[15-193-30] 17-2034-30 Nondiscrimination. Tenant selection and assignment shall be made without regard to race, sex, color, religion, marital status, creed, national or ethnic origin, familial status, gender identity or expression, [ancestry] sexual orientation, handicap or disability, age, or HIV (human immunodeficiency virus) infection. [Eff ] (Auth: HRS §[201G] 356D-4,356D-44) (Imp: HRS §§[201G] 356D-5, [201G] 356D-42, 515-3)

**New Section 17-2034-31 [Preference – eliminating preference for elderly and adding preference for homeless and victims of domestic violence, reordering preferences to implement statutory disabled veterans preference; clarifying language];**

§[15-193-31] 17-2034-31 Preference. (a) Except for those units [design] designed for a specific purpose (such as units for [person] persons with disabilities), applicants for

admission into state public housing projects shall be given preference for placement in a state-aided family housing project in the following order:

- [ (1) The elderly;
- (2) The displaced;
- (3) Disabled veterans with service connected disabilities;]
- (1) Deceased veteran's widow or widower;
- (2) Veterans with [service connected] permanent disabilities[;] of ten per cent or more, as certified by the United States Department of Veterans Affairs and their dependent parents, if any; provided that parents of veterans shall not use the veteran status of their adult child as a basis for preference; and
- [ (4) Families of deceased veterans whose death was determined to be service connected;
- (5) Other veterans;
- (6) Families residing in a transitional shelter for the homeless and who have successfully completed a social service plan; and]
- (3) Then to the following preference groups with equal priority:
  - (A) Involuntarily displaced;
  - (B) Victims of domestic violence who are participating in a program with case management through a domestic violence shelter, program, or clearinghouse; or
  - (C) Homeless persons who are participating in a federally or state funded homeless transitional shelter or program, and who are in compliance with a social service plan.

[ (7) ] (D) Other families determined by the [staff.] authority.

(b) [Regardless of the date and time of application, an applicant who will be the sole occupant of a unit and who is not elderly, or displaced, or a person with disabilities, shall not have preference over elderly, displaced, or disabled families with up to two members.] An applicant shall not receive preference if any adult member of the applicant family is a person who was evicted or terminated from any federally-assisted housing or state-aided public housing program operated by the authority for a three-year period beginning on the date of eviction or termination because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the authority. [Eff  
] (Auth: HRS §[201G] 356D-4,356D-44) (Imp: HRS §[201G] 356D-42)



**New Section 17-2034-32 [Loss of Preference – clarifying language];**

§[15-193-32] 17-2034-32 Loss of preference. An applicant who declines an offer, without just cause, of a housing unit or who voluntarily requests cancellation of the application [after declining an offer] shall lose all preferences [and priorities] for a period of twelve months from the date the offer was declined or from the date of the request for cancellation. [Eff ] (Auth: HRS [201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

**New Section 17-2034-33 [Waiting List – selection of one geographic area waitlist; change waitlist area at any time];**

§[15-193-33] 17-2034-33 Waiting lists. (a) The [corporation] authority shall maintain [a] five geographical waiting [list] lists of all apparently eligible applicants [for each of state-aided family housing projects.] as follows:

- (1) Kalihi waitlist which is comprised of Puahala Homes and Hauiki Homes;
- (2) East Hawaii which is comprised of Lokahi;
- (3) North Hawaii which is comprised of Ke Kumu Elua;
- (4) Kauai which is comprised of Kawailehua (state);
- (5) Molokai which is comprised of Kahale Mua (state).

(b) Applicants shall be notified of the opportunity to apply for and be placed on [any and all] one of the waiting lists through notices posted in a conspicuous place at the [corporation's] authority's offices which accept applications and a printed statement in the [corporation's] authority's informational material on its application process.

(c) Placement of applicants on a waiting list shall be based upon the following:

- (1) Type of project;
- (2) Size of dwelling unit required based on occupancy standards;
- (3) Type of dwelling unit required (e.g., accessible for persons with disabilities);
- (4) Applicable state preference; and
- (5) Date and time of receipt of application.

(d) An applicant must notify the [corporation] authority of any change[, ] which will affect applicant's place on a waiting list and the [corporation's] authority's ability to contact applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, and current residence.

(e) An applicant [may continue to be on a waiting list even though applicant is a tenant in or receiving housing assistance from another housing program.] cannot remain on a waiting list if they are currently a tenant in any state or federal public housing program.

(f) An applicant may elect to change from one geographic waiting list to another geographic waiting list while maintaining the original date and time of their application upon proper written notice to the authority. [Eff \_\_\_\_\_]  
(Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

### **New Section 17-2034-35 [Closing and Reopening Waiting List – clarifying language];**

§[15-193-35] 17-2034-35 Closing the waiting lists. (a) The [corporation] authority, at its discretion, may restrict acceptance of applications, and close the waiting lists in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting lists within a reasonable period of time.

(b) The [corporation] authority shall [publicly] announce any closure and reopening of the application process through notices posted in a conspicuous place at the authority's offices that accept applications.

(c) During periods when application acceptance is closed and until it is reopened, the [corporation] authority shall not maintain a list of persons to be notified when application acceptance is reopened. [Eff \_\_\_\_\_] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

### **New Section 17-2034-36 [Offers – cancellation of application upon refusal of one unit without good cause; Implement 50% to preference, 50% to non-preference applicant law; clarifying language];**

§[15-193-36] 17-2034-36 Offers. (a) An applicant shall be afforded only one offer to rent a suitable unit. The offer shall be based on what is available in a requested [housing] project on the day of the offer. If there is more than one suitable dwelling unit available on the day of the offer, the dwelling unit offered shall be the one with the earliest vacancy date.

(b) Offers to eligible applicants shall be made in sequence based upon the following:

(1) Size of dwelling unit required;

[ (2) Type of project needed;

(3)] (2) Type of dwelling unit required (e.g., accessible units for the mobility, hearing or visually impaired);

[ (4) Factors affecting priorities and preferences as established by the corporation;

(5)] (3) Preferences;

(4) Date and time the application was received.

(c) Upon refusal of an offer, without good cause, the applicant's name will be [moved to the bottom of] cancelled from [all] the waiting [lists] list on which the applicant's name has been placed.

(d) An applicant shall not be considered to have been offered a unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

- (1) The unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g., a specially designed unit that is awaiting a person with [disabilities] a disability [applicant] needing such a unit);
- (2) The unit offered is unsuitable for health or safety reasons for the applicant;
- (3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the [corporation's] authority's satisfaction, [such as] including, but not limited to:
  - (A) A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
  - (B) A court verifies that the applicant is serving on a jury which has been sequestered;
  - (C) A landlord verifies that the applicant has an existing [lease] rental agreement that cannot be [breach] breached without causing undue financial hardship.
- (4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to the [corporation's] authority's satisfaction (e.g., [where current employment or day care facilities are inaccessible].) inaccessibility to source of current employment or day care facilities).

(e) Not less than fifty per cent of all available units shall be for applicants without preference and up to fifty per cent of available units shall be for applicants with preference.

[Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

**New Section 17-2034-37 [Accessible units – clarifying language];**

§[15-193-37] 17-2034-37 Occupancy of accessible dwelling units. The [corporation] authority shall take the following nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit.

(a) When an accessible unit becomes vacant the [corporation] authority shall, before offering such units to an applicant without disabilities, offer [the] such [unit] units:

- (1) First, to a current occupant of another unit of the same project or other projects within the same housing program, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

(b) When an applicant [who is not disabled] accepts [a] an accessible unit, [with accessibility features] and the applicant does not have a disability that requires the accessibility features of the unit, the applicant shall [transfer to a non-accessible] be required to agree to move to a non-accessible unit when one becomes available. [Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

**New Section 17-2034-40 [Rental Agreement – Chapter 521, HRS, Landlord Tenant Code governs State-Aided Family Public Housing Program];**

§[15-193-40] 17-2034-40 Rental agreement. (a) A tenant shall enter into a rental agreement with the [corporation] authority which sets forth the conditions of occupancy for the tenant including, but not limited to, the rental terms, security deposit, smoking prohibitions, eligibility reexaminations and rental adjustments, and for welfare recipients, authorization for the authority to draw rental payments directly from their EBT or bank account.

(b) No tenant shall be permitted to remain in a [housing] project without a valid rental agreement.

(c) Except as provided in this chapter and in the rental agreement entered into pursuant to (a) above, tenancy in a state-aided public housing unit shall be governed by chapter 521, Hawaii Revised Statutes. [Eff ] (Auth:

HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42, [201G] 356D-43, 356D-44)

**New Section 17-2034-41 [Eligibility for continued occupancy – new requirements; smoking prohibition; maintain utility services; not acquire property interest; not threaten staff; not harm or damage authority; approval of additions to the family];**

§[15-193-41] 17-2034-41 Eligibility for continued occupancy.

(a) To be eligible for continued occupancy in a [family housing] project, the tenant shall:

- (1) Qualify as a family;
- (2) Conform to the occupancy standards;
- (3) Have an income that does not exceed the applicable income limit for continued occupancy;
- (4) Have assets that do not exceed the applicable limits for continued occupancy;
- (5) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees; [and]
- (6) Abide by smoking prohibitions pursuant to section 17-2034-49;
- (7) Maintain continued and uninterrupted utility services; and
- (8) Not have acquired a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary agreement in which another person holds legal title to such land.
- (9) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include racial epithets, or other language, written or oral, that is customarily used to intimidate; or
- (10) Not cause any harm or damage to the authority, its staff, agents, representatives, or programs.

(b) Except for a newborn child, [a] no person, including a live-in aide, shall [not] be permitted to join or rejoin the family until [it is verified] the authority verifies that the person meets the eligibility requirements set forth in section 17-2034-21[.], and approves of the family's request to add a family member as an occupant of the dwelling unit. The authority will not approve the addition of family members other

than by marriage, birth, adoption, or court-awarded custody where the occupancy standards would require a larger size unit.

[(b)](c) Addition of a newborn or adopted child, or court-award custody of a child, and all other changes to household composition must be reported to the authority within ten business days.

[Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42, [201G] 356D-43)

**New Section 17-2034-41.1 [Continued occupancy of remaining members of tenant families – requirements for continued occupancy of remaining members of tenant families; 12 month occupancy period; remaining minors];**

§17-2034-41.1 Continued Occupancy of Remaining Members of Tenant Families. (a) If the head of household is declared permanently absent, upon request of the remaining members of the family, the authority will determine the eligibility of a remaining member of the tenant family to continue to occupy the unit pursuant to section 17-2034-41; provided that no remaining member of the family who has occupied the unit for less than 12 months at the time the head of household becomes permanent absent, is eligible to become the new head or co-head of household.

(b) For remaining members of tenant families who are minors, where an appropriate agency has determined that another adult is to be brought into the unit to care for the children for an indefinite period, the authority will treat that adult as a visitor for the first twenty one calendar days. If court-awarded custody or legal guardianship is awarded to the caretaker, the authority may transfer the rental agreement to the caretaker until the oldest minor in the household reaches the age of majority, provided that the authority verifies that the caretaker meets the eligibility requirements set forth in section 17-2034-21; and provided further that the authority will not approve the inclusion of a caretaker where the occupancy standard would require a larger unit than the current unit size or the unit size appropriate for the family, if the family is currently in a unit size that is too small for its household composition. [Eff

] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42, [201G] 356D-43)

**New Section 17-2034-43 [Reexamination results – time to vacate unit after determination of ineligibility; removal of grievance procedure];**

§[15-193-43] 17-2034-43 Reexamination results. (a) A [tenant] family shall be given written notification within a reasonable time, after determination by the staff, of both the [tenant's] family's eligibility for continued occupancy and rent schedule.

(b) A [tenant] family found ineligible for continued occupancy by the staff shall be required to vacate the dwelling unit [within ninety days from the date of ineligibility].

[(c) A tenant aggrieved by the reexamination results may request a hearing pursuant to the corporation's grievance procedure as provided in section 17-2021, HAR.] [Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

#### **New Section 17-2034-44 [Special reexamination – time of special reexaminations];**

§[15-193-44] 17-2034-44 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably determined for the next twelve months, the authority may schedule a special reexamination [shall be scheduled within three months] at any time prior to the next annual reexamination when deemed necessary. [Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

#### **New Section 17-2034-45 [Interim rent adjustment];**

§[15-193-45] 17-2034-45 Interim rent adjustment. (a) [If applicable, the] The [corporation] authority may adjust a [tenant's] family's rent between reexamination if a tenant reports a change in family income. However, adjustments to rent shall not be made for covered families with reduced welfare benefit payments resulting from welfare sanctions for noncompliance with welfare self-sufficiency and work activity requirements.

(b) Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made. The authority will not process the rent adjustment if it confirms that the decrease in income will last less than thirty calendar days.

(c) A tenant who has obtained a decrease in rent under this section[,] shall report all income increases to the authority which occur prior to the next reexamination within ten business days of when the tenant knows the increase will occur, and rent shall be readjusted accordingly. Any increase in rent

shall be effective on the first day of the second month following the month in which the change occurred.

(d) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made[.] pursuant to section 17-2034-47.

(e) A tenant shall report to the authority any changes in family composition. Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion. [Eff  
] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42, [201G] 356D-43)

**New Section 17-2034-46 [Tenant transfers – updating protected classes for nondiscrimination purposes; when unit transfers are authorized; clarifying when families will not be transferred];**

§[15-193-46] 17-2034-46 Tenant transfers. (a) Tenant transfers will be made without regard to race, sex, color, creed, religion, marital status, gender identity or expression, sexual orientation, national or ethnic origin, familial status, ancestry, disability, age, or HIV (human immunodeficiency virus) infection.

(b) The [corporation] authority may transfer a [tenant] family to another dwelling unit:

- (1) To prevent overcrowding or under utilization of a dwelling unit as determined by the [corporation] authority at the time of the annual or interim reexamination;
- (2) To preserve the purpose for which a project or unit was specifically developed or designed such as to meet the needs of the elderly, or a person with disabilities;
- (3) [To meet a verifiable health or safety need; or] Based on an emergency where conditions of the dwelling unit, building or project pose an immediate, verifiable threat to life, health or safety of the family;
- (4) For economic reasons affecting the tenant or the [corporation.] authority;
- (5) For administrative reasons determined by the authority including, but not limited to, permitting modernization, renovation, redevelopment or rehabilitation work and transferring eligible tenants with disabilities from federally-assisted public



housing projects to State-aided public housing projects; [or]

- (6) When the family no longer requires the accessible features of an accessible unit and the authority had identified another family who requires the accessible features of the unit; or

[(6)] (7) As a reasonable accommodation.

(c) Tenant transfers [shall] may take priority over new admissions.

(d) A [Tenant] family shall be afforded one offer to transfer to a unit that meets the criteria set forth in subsection (b) within the same [housing] project in which the [tenant] family resides, if feasible. If such unit is not available, [tenant] the family may then be offered a unit in another housing project [under the control of the management unit.] in the same geographic area. If such a unit is not available, [tenant] the family may then be offered a suitable unit on the island on which [tenant] the family resides. Declining an offer to transfer for good cause as determined by the [corporation] authority shall not be considered a refusal.

(e) [Tenant] A family requesting a transfer shall not be transferred during periods when eviction proceedings have been initiated or are in process against such [tenant] family, which includes the issuance of a notice of violation of the rental agreement by the authority for which the authority is seeking eviction or during any period of conditional deferment of eviction action against such [tenant] family.

(f) A [Tenant] family requesting a transfer, who is not current with rent or other charges, and who does not have an approved payment arrangement shall not be transferred until the situation is resolved to the satisfaction of the [corporation] authority.

(g) The [corporation] authority may terminate the rental agreement of a tenant who refuses to transfer as required by the [corporation] authority. [Eff ] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42)

### **New Section 17-2034-47 [Backcharges – repayment within 60 days, reduced from 180 days; reasonable payment arrangements]**

§[15-193-47] 17-2034-47 Backcharges. (a) A [tenant] family shall pay in full any backcharges within [one hundred eighty] sixty days [after being notified by the staff of the backcharge] from the date of notification of the backcharge; provided that where the family timely reports a change in income to the

authority and a backcharge results from an increase in income, payment for any backcharges shall not be due until sixty days from the date of a completed reexamination or interim rent adjustment. Failure to do so shall result in the termination of the rental agreement [for non-payment of rent].

(b) The authority may, in its discretion, negotiate a reasonable payment arrangement, not to exceed 180 calendar days, with a family to ensure payment in full of any backcharges. When the authority determines not to exercise this discretion, the family shall be responsible for the full balance of backcharges as stated in subsection (a). [Eff

] (Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-4, [201G] 356D-42, [201G] 356D-43)

**New Section 17-2034-48 [Rental agreement – clarifying language; termination for threatening employees, violating smoking prohibition, failure to maintain utility services, conviction of certain felonies, fleeing prosecution or custody, violation of condition of parole, willful damage to HPHA property];**

§[15-193-48] 17-2034-48 Rental agreement termination. (a) A [tenant] family shall give the [corporation] authority at least twenty-eight days written notice that the [tenant] family will vacate the [tenant's] family's unit prior to the vacate date.

(b) The [corporation] authority may terminate a rental agreement when [a] the tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

(1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the [corporation] authority or housing project, or law or ordinance of a governmental agency that pertains to or establishes standards of occupancy[;]. This includes but is not limited to the following:

- (i) Serious or repeated violation of the material terms of the rental agreement, including failure to make payments due or fulfill household obligations set forth in the rental agreement;
- (ii) Failure to provide family income, assets, employment and composition information and documentation to enable the authority to determine the family's rental rate and eligibility for continued occupancy;
- (iii) Family no longer conforms to the occupancy limits as established by the authority for the unit occupied by the family and the family

- refuses to move to the first appropriate size unit offered;
- (iv) When requested by the authority due to health and safety, repair, abatement, construction, renovation or redevelopment of the dwelling unit and the family refuses to move;
  - (v) Family is ineligible for continued occupancy;
  - (vi) At the time of admission, reexamination, interim or at any other time, the family has submitted false information or has withheld valuable information or has made wilful misstatements; and
  - (vii) Family fails to accept the authority's offer of a revision to the existing rental agreement.
- (2) Engages in the illegal use of a [controlled substance;] drug or gives the authority reasonable cause to believe that the illegal use (or pattern of illegal use) of a drug or abuse (or pattern of abuse) of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants;
- [ (3) Whose illegal use of a controlled substance, or abuse of alcohol, is determined by the corporation to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- (4) ] (3) Who the [corporation] authority determines engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other [residents] tenants; [or]
- [ (5) ] (4) Who the [corporation] authority determines engages in any drug-related criminal activity on or near the [corporation's] authority's [property] premises;[.]
- (5) Threatens the health or safety of an employee, contractor or agent of the authority or State;
- (6) Violates the smoking prohibitions pursuant to section 17-2034-49 on more than two occasions and receives written notice of said violations; provided that a guest who is visiting a resident, or any member of the tenant's household, who violates the smoking prohibition shall be deemed a violation by the tenant, and shall be counted toward the tenant's violations; provided further that failure to respond to management's request will result in a separate Notice of Violation being issued to the Tenant(s) for the refusal to respond to management's request; provided further that if tenant, any member of the tenant's household, or any guest or other person under the

tenant's control receives only one violation of section 17-2034-49 in one year, and participates in and completes a smoking cessation service program within the same year, the authority will clear the one violation and shall not deem the incident as a violation for the following year;

(8) Fails to maintain utility services;

(9) Has been convicted of a felony during the term of the tenancy, and the felony is related to the authority's property or funds, the resident association or tenant association's property or funds, homicide, assault, terroristic threatening, firearms, dangerous weapons, kidnapping, sexual assault, extortion, burglary, unauthorized control of propelled vehicle, and criminal property damage. This subsection does not apply to tenant's guest or other person under tenant's control;

(10) Flees to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;

(11) Violates a condition of probation or parole imposed under federal or state law; or

(12) Engages in wilful damage to the authority's property.

(c) The [corporation] authority shall give a tenant written notice of the proposed termination of the rental agreement of not less than:

(1) Fourteen days in the case of failure to pay rent;

(2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees; or

(3) Thirty days in all other cases.

(d) The [corporation] authority shall terminate a rental agreement in accordance with chapter [201G,] 521, HRS. [Eff ] (Auth: HRS §§ [201G] 356D-4, 356D-6.5, 356D-44) (Imp: HRS §356D-6.5, [201G] 356D-42, 356D-44)

### **New Section 17-2034-49 [Smoking prohibition – implementing statutory smoking prohibition];**

§17-2034-49 Smoking prohibited. (a) Smoking is prohibited in all public housing projects, or portions of public housing projects, including inside dwelling units, except where marked by the authority as a designated smoking area, including:

- (1) Each individual housing unit;
- (2) In all common areas and community facilities in and around the authority's public housing projects. The authority may designate additional common areas; and
- (3) Within a presumptively reasonable minimum distance of twenty feet from each individual building of the housing project, and from any entrances, exits, and windows that open to common areas, community facilities, and dwelling units, and ventilation intakes that serve common areas, community facilities, and dwelling units, including enclosed or partially enclosed areas where smoking is prohibited.

(b) One or more permissible designated smoking areas may be designated by the authority at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit, if such an area can be identified on the property, as authorized by Act 91, Session Laws of Hawaii 2014.

(c) Tenants, members of the tenant's household, and guests and visitors of the household shall promptly discontinue smoking upon management's request when observed smoking outside of a designated smoking area, if any. [Eff

(Auth: HRS §§356D-4, 356D-6.5, 356D-44) (Imp: HRS §§356D-6.5)

#### **New Section 17-2034-61 [Minimum rent – reflect correct exhibit number];**

§[15-193-61] 17-2034-61 Minimum rents. (a) The minimum rent shall be based upon the number of bedrooms in the dwelling unit.

(b) The minimum rents for state-aided family projects are set forth in exhibit [D,] C, which is incorporated by reference and attached.

[Eff ] (Auth: HRS §§[201G] 356D-4, 356D-44)

(Imp: HRS §§[201G] 356D-4, [201G] 356D-44)

#### **New Section 17-2034-66 [Other charges – new late fee, dishonored check fee, and maintenance costs];**

§17-2034-66 Other Charges. The authority may charge a family, in addition to monthly rent and applicable utility charges, the following:

(a) A late fee of \$25.00 if the monthly rent is paid after the seventh business day of that month;

(b) A dishonored check fee of \$25.00 for every check made payable to the authority that is returned for insufficient funds; and

(c) Maintenance costs which includes repair costs related to damages to the dwelling unit or appliances or equipment furnished by the authority, in excess of ordinary wear and tear, and for any repairs to project buildings, facilities, or common areas required because of the wrongful act or negligence of the family or the family's guest or visitor. [Eff  
(Auth: HRS §[201G] 356D-4, 356D-44) (Imp: HRS §§[201G] 356D-42, [201G] 356D-43, 356D-44)

**New Section 17-2034-67 [Delinquent accounts – authority to assign to a collection agency];**

§17-2034-67 Delinquent accounts. The authority may assign delinquent accounts to a collection agency. [Eff  
(Auth: HRS §356D-4, 356D-44) (Imp: HRS §356D-42, 356D-45.5)

**New Section 17-2034-70 [Special programs – authority to administer special programs using different criteria]**

§17-2028-70 Special programs. The authority may administer programs that are created for special or specific purposes to benefit specific categories of persons as determined by the authority. This may include selection from wait lists and lists of participants using criteria that are different from those provided in this chapter. [Eff 7/21/05; am and comp 9/4/07; comp  
(Auth: HRS §§356D-4, 356D-44, 356D-13) (Imp: 24 C.F.R. 960.505; HRS §§356D-4, 356D-13, 356D-31)

**New Section 17-2034-71 [Occupancy by police officers – authority to allow occupancy of police officers to enhance security]**

§17-2028-71 Occupancy by police officers. For the purpose of increasing security for tenants of a public housing project, the authority may enter into an agreement with police officers to allow occupancy of police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit; provided that the police officer shall pay a security deposit and the monthly minimum rent as provided in section 17-2034-61. [Eff 7/21/05; am and comp 9/4/07; am and comp  
(Auth: HRS §§356D-4, 356D-44, 356D-13) (Imp: 24 C.F.R. §960.505; HRS §§356D-4, 356D-13, 356D-31)

**Inserting Reserved Sections 17-2034-10 through 17-2034-19; 17-2034-24 through 17-2034-29; 17-2034-38 through 17-2034-39; 17-2034-50 through 17-2034-59; 17-2034-68 through 17-2034-69; 17-2034-72 through 17-2034-79**

